IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

FIRST APPEAL NO. 875 OF 2004

The Chief Engineer,
Konkan Railway Corporation Ltd. ... Appellant

V/s

Kashiram Krishna Sawantdesai (deceased)
through his legal heirs.

And

The Spl. Land Acquisition Officer,
Konkan Railway-I, Ratnagiri. ... Respondents

Smt. Kiran Bhagali holding for Smt. Lalita Panchakshari for the appellant.

Shri B.R. Patil, Addl. Govt. Pleader for the State.

CORAM: P.V. KAKADE, J.
DATED: 29TH OCT., 2004.

P.C.:

1. The matter is already admitted by order dated 18th October, 2004.

2. By consent of the parties, the appeal is heard finally and is being disposed of by this order.

3. In similar proceeding between the appellants Konkan Railway and original claimants, the Division Bench of this Court has passed order dated 12.10.2004 in First

Appeal (St) No. 16362 of 2002. The present appeal is also being disposed of on the basis of the ratio laid down by the said Division Bench judgment, with following directions:-

(i) The appeal is partly allowed.

(ii) The order passed by the Civil Judge, Sr. Divn., Ratnagiri in Land Reference No. 115 of 1994 is hereby set aside and the matter is remanded back to the Court of Civil Judge, Sr.Divn., Ratnagiri. The appellant shall suo-moto appear before the Civil Judge, Sr. Divn., Ratnagiri on 6.12.2004 and shall file written statement. After filing the written statement, the Civil Judge shall recast the issues within a period of one week. One week's time shall be granted to both sides to place the list of witnesses and thereafter within a period of one week the matter shall be listed for final hearing. At the final hearing, it will be open for the respondents to lead evidence of the additional witnesses. It will be equally open for the appellants to cross-examine the respondents' witnesses (the earlier examined

witnesses and the later on examined witnesses). Thereafter, it will be open for the appellants to lead their own evidence thereafter the matter will be closed. After closure of the matter, within a period of 15 days the argument shall be heard by the Trial Judge and within a period of one week thereafter the judgment shall be delivered. This schedule shall be strictly followed by all the parties and the Civil Judge, Sr.Divn., Ratnagiri and the parties are directed to co-operate with the Trial Court.

(ii) It is hereby directed that the appellants shall deposit the amount of 50% enhanced compensation including the solatium, component and interest as directed in the order dated 10.2.2004 passed by the Civil Judge, Sr. Divn., Ratnagiri. The said amount shall be deposited within four weeks from the date of this order in the Court of Civil Judge, Sr. Divn., Ratnagiri. On deposit of the said amount in the Court of Civil Judge, Sr. Divn., Ratnagiri, the original claimants shall be entitled to withdraw the said deposited amount on furnishing undertaking without any surety. The remaining 50% amount

shall not be deposited by the appellants in the lower Court at this stage.

With these directions, the appeal stands disposed of.

Parties to act on the ordinary copy of this order duly authenticated by the Sheristedar of this Court as a true copy.

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